761551N25A - SH-AD-32A

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
A Tradition of Service

DATE: November 4, 2011
FILE NO:

OFFICE CORRESPONDENCE

FROM: JOSEPH S. HARTSHORNE, COMMANDER
OFFICE OF THE UNDERSHERIFF

TO: JOSEPH B. NUNEZ, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:	SH2277798
Incident:	Hit Shooting
Incident Date:	November 26, 2010
Unit:	Walnut Station / FOR III
Suspect:	Alexander Acosta MH/31
Involved Employees:	Deputy Daniel Torres #[redacted]
EFRC Date:	October 6, 2011

On October 6, 2011, the Executive Force Review Committee consisting of Commander Joseph Hartshorne, Commander Todd Rogers, and Commander David Fender met and reviewed the above case.

FINDINGS:

The Committee determined that the force used by Deputy Torres was objectively reasonable and in compliance with Department Policy. The Committee also determined the tactics used by deputies were reasonable and within the scope of Department training.

<u>Table of Contents</u>

IAB CASE NO. **IV2277798**

OFFICER INVOLVED SHOOTING FORM AND INVESTIGATIVE SUMMARY

WITNESS INTERVIEWS

Alejandro Ruvalcaba
Cuong Nguyen
Victor Iniguez
Joseph Fertal
[redacted]
Daniel Torres

EXHIBITS

A - Homicide Book

B - One photograph of the exterior of the location

C - One photograph of the meat cleaver

D - One photograph of the living room

E - One compac disc contain the crime scene photograph taken by Scientific Services and thumbnail photographs of the crime scene

F - Los Angeles County District Attorney's Office, Justice System Integrity Division (JSID), Letter of Opinion

MISCELLANEOUS DOCUMENTS

- Signed witness admonition for Deputy Torres
- PM shift in-service for Walnut Station dated November 26, 2010
- Shooting Scores for Deputy Torres
- Weapons Training Records for Deputy Torres
- Training Records for Deputy Torres

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: 11/26/10	Bureau/Station/Facility: FORIII / Walnut Station	Admin. Invest.? ☐ Hit? ☒

Incident Information

URN: 010-08871-2931-013	Date: 11/26/10 Time: 2116 hours
City or Station: Rowland Heights	Nature of Incident: Deputy Torres shot Suspect Acosta as he was attacking Victim [redacted] with a meat cleaver.
Location: [redacted] Colima Road	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, **Residence**, Rural, School, Street, Other: ______

Lighting (*circle only one*): Darkness, Daylight, **Other**, Street Lights

Weather (*circle only one*): **Clear**, Cloudy, Fog, Rain

Distance: 6-7 feet

Incident Type (*circle one or more*): Accidental, **Armed Person**, Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: In Defense of Others

Initiated by (*circle only one*): Arrest Warrant, **Call**, Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol**

Total # of Shots Fired by Deputy: 3

Total # of Shots Fired by Suspect: 0

Aero Unit? ☐ Canine Unit? ☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Nguyen	Cuong	P.	EM **PM** Day	**Regular** Overtime Off Duty
[redacted]	Iniguez	Victor	J.	EM **PM** Day	**Regular** Overtime Off Duty
[redacted]	Ruvalcaba	Alejandro		EM **PM** Day	**Regular** Overtime Off Duty

Non-Employee Witnesses

Last Name [redacted]		First Name [redacted]		M.I. [redacted]
Street Add[redacted]	City [redacted]	Zip [redacted]	Work Ph	[redacted]
Last Name [redacted]		First Name [redacted]		M.I.
Street Add[redacted]	City [redacted]	Zip [redacted]	Work Ph	[redacted]
Last Name		First Name		M.I.
Street Address	City	Zip Code	Work Ph	Home Ph

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*)
[redacted]	Estrada	Mario	F.	**On Duty**, Present during shooting, Witness to shooting, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Mannion	Patrick	J.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Mannion	Patrick	J.

PSTD Use Only
SH # 2277798

SH-R-438A rev. 3/97

See Reverse

Officer Involved Shooting

URN: 010-08871-2931-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
11/26/10	2156	07/07/11	

Employee #	Last Name	First Name	M.I
[redacted]	Allen	Victor	M.
[redacted]	Adler	Kelly	L.
[redacted]	Ault	Alicia	E.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E#1	S#1	FH	BR	9	Y	Y	GS	BK

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 010-08871-2931-013

Involved Employee

E 1

Employee # [redacted]	Last Name: Torres	First Name: Daniel	M.I.
Sex: M Race:	Rank: Deputy Sheriff B-1	Unit Assignment: Walnut Station	Work Assignment (Unit #, Module, etc.): 293
ShiftTime (*circle only one*): EM (PM) Day	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # Interviewed? ☒
Hrs of sleep prior to shooting: 6 Duty [redacted]	Clothing (*circle only one*): Plain Clothes no Vest; Raid Jacket w/ Vest; Plain Clothes w/ Vest; (Uniform no Vest); Raid Jacket no Vest; Uniform w/ Vest		Other Factors:
Age: [redacted] Height: 505 Weight: 175			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp #	Last Name	First Name	M.I.

E__

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # Interviewed? ☐
Hrs of sleep prior to shooting: Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest; Raid Jacket w/ Vest; Plain Clothes w/ Vest; Uniform no Vest; Raid Jacket no Vest; Uniform w/ Vest		Other Factors:
Age: Height: Weight:			
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E__

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # Interviewed? ☐
Hrs of sleep prior to shooting: Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest; Raid Jacket w/ Vest; Plain Clothes w/ Vest; Uniform no Vest; Raid Jacket no Vest; Uniform w/ Vest		Other Factors:
Age: Height: Weight:			
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting
Suspect Information

URN: 010-08871-2931-013

Suspect Information

S 1

Last Name: Acosta	First Name: Alexander	M.I.
AKA Last Name	First Name	M.I.

Sex: M Race: H	Street Address: [redacted]	City [redacted]	[redacted] Zip [redacted]
Work Phone:	Home Phone:	Social Secu[redacted]	Driver's Licens[redacted]
Age: 31 D.O.B. 09/15/79	Height: 507 Weight: 155	FBI # [redacted]	CII # [redacted]
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☒	Coroner Case # 2010-07807	Intoxication/Drug Usage? ☒	Substance Used: PCP - Marijuana - Alcohol
Armed? ☒	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make		Model:	Year:

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

INVESTIGATIVE SUMMARY

INCIDENT: On-Duty Hit Shooting

IAB FILE NUMBER(S): SH2277798

URN#: 010-08871-2931-013

DATE /TIME: November 26, 2010 / 2116 Hours

LOCATION: [redacted] Colima Road, [redacted]
Rowland Heights, CA 91748

Opening Statement

On Friday, November 26, 2010, Sergeants Victor Allen and Kelly Adler of the Internal Affairs Bureau responded to [redacted] Colima Road [redacted] Rowland Heights regarding an On-Duty Hit Shooting which resulted in the death of Suspect Alexander Acosta. Internal Affairs Bureau Lieutenant Alicia Ault also responded. Attorney Diana Teran of the Office of Independent Review was notified and responded to the scene. Lieutenant Scott Johnson and Deputies Daniel McDonald and Scott Edge and of Risk Management Bureau also responded to the scene.

Synopsis

On Friday, November 26, 2010, Deputies Cuong Nguyen, Daniel Torres, Alejandro Ruvalcaba, Victor Iniguez and Joseph Fertal arrived at [redacted] Colima Road [redacted] Rowland Heights in response to an assault with a deadly weapon call. The call indicated a stabbing had just occurred and identified the suspect as Alexander Acosta who was still present at the location. Refer to the incident record on page 18 of **[Exhibit A].**

Deputy Nguyen, Unit 293K5, was assigned the handle to the call. He coordinated with assisting units over the dispatch frequency (The Patch) requesting the responding units meet at Colima Road and Jellick Avenue, which was west of the location. Deputies Torres and Ruvalcaba, Unit 293, responded in tandem with Deputy Iniguez, Unit 293K3 from a position east of the location. They arrived within a minute of the call being dispatched and quickly located the apartment unit. The location was a multi building apartment complex located on the [redacted] side of Colima Road. The apartment unit where the incident occurred was located on the second story of the building on the [redacted] portion of the complex. The staircase leading to the apartment was on the exterior front portion of the building. Refer to the photo **[Exhibit B].**

Standing on the landing of the staircase in front of the apartment unit was a female Hispanic adult, who was later identified as the [redacted] and the informant for the call. Deputy Iniguez ascended the staircase first. He was directed into the apartment's open door by the informant. Deputies Nguyen, Torres and Ruvalcaba seeing Deputy Iniguez enter the apartment followed him upstairs.

Upon entering the apartment, Deputy Iniguez saw the suspect straddling over the victim with a meat cleaver in his right hand. Refer to the photograph **[Exhibit C]** of the meat cleaver. The victim was lying on the floor in the living room. Refer to **[Exhibit D]** for a photograph of the living room. Deputies Nguyen and Torres entered the apartment and the three deputies stood side by side just inside the doorway of the apartment. Deputy Ruvalcaba stayed on the landing just outside the door to prevent the informant from entering the apartment. Deputies Iniguez, Torres and Nguyen gave the suspect orders to drop the weapon; however, the suspect failed to comply and swung the meat cleaver at the victim. Deputy Torres believing the victim would be killed, fired three rounds from his Department issued Beretta striking the suspect twice in his left side and once in the left side of his back.

The suspect stood up and moved to the kitchen where he collapsed. The location was cleared for any additional suspect(s) or victim(s) by Deputies Iniguez and Nguyen while Deputy Torres covered the victim and suspect. Paramedics were summoned to the scene and subsequently pronounced the suspect dead.

__**Involved Personnel**__

Deputy Daniel Torres [redacted]
FOR III / Walnut Sheriff Station

__**Work History**__

Date of Employment:	**December 1982**
Date Assigned to Patrol:	[redacted]
Date Completed Patrol Training:	[redacted]
Date Assigned to Walnut Station:	**September 1993**
Prior Shooting Incident(s):	[redacted]
Prior Founded Force:	[redacted]



__**Suspect(s)**__

Alexander Acosta MH/31 Deceased
DOB: 09-15-1979
CC# 2010-07807

Witnesses

Deputy Alejandro Ruvalcaba

Deputy Ruvalcaba was interviewed by Homicide Detectives Peyton and Barron. IAB Investigators Allen and Alder were present during the interview.

Deputy Ruvalcaba stated he drove to the location with Deputy Torres. Upon arrival, he saw Deputy Iniguez ascend the exterior stair case leading to the apartment. On the landing at the top of the staircase, he stated he saw a female (The Informant). Deputy Ruvalcaba said he briefly looked inside the apartment and saw the suspect standing over the victim with an object in his hand. Deputy Ruvalcaba said he saw the victim lying on the floor bleeding. He stated he stayed on the landing blocking the informant from entering the apartment which prevented him from seeing inside the apartment. Deputy Ruvalcaba stated he heard three gunshots and looked into the apartment and saw that all the deputies were accounted for. Refer to pages 36-37 of **[Exhibit A]** for a complete summary of Deputy Ruvalcaba's statement.

Deputy Cuong Nguyen

Deputy Nguyen was interviewed by Homicide Detectives Peyton and Barron. IAB Investigators Allen and Alder were present during the interview.

Deputy Nguyen stated he entered the apartment just after Deputy Iniguez. Upon entering, he saw the victim lying on the living room floor surrounded by blood. He saw the suspect standing over the victim holding a meat cleaver. Deputy Nguyen said he gave the suspect commands to drop the knife. Also, he said Deputy Torres ordered the suspect several times to drop the knife. Deputy Nguyen stated the suspect looked in their direction said something to effect of "get out of here" and continued to press the knife to the victim's neck. Deputy Nguyen then heard two to three gunshots. Refer to pages 37-38 of **[Exhibit A]** for a complete summary of Deputy Nguyen's statement.

Deputy Victor Iniguez

Deputy Iniguez was interviewed by Homicide Detectives Peyton and Barron. IAB Investigators Allen and Alder were present during the interview.

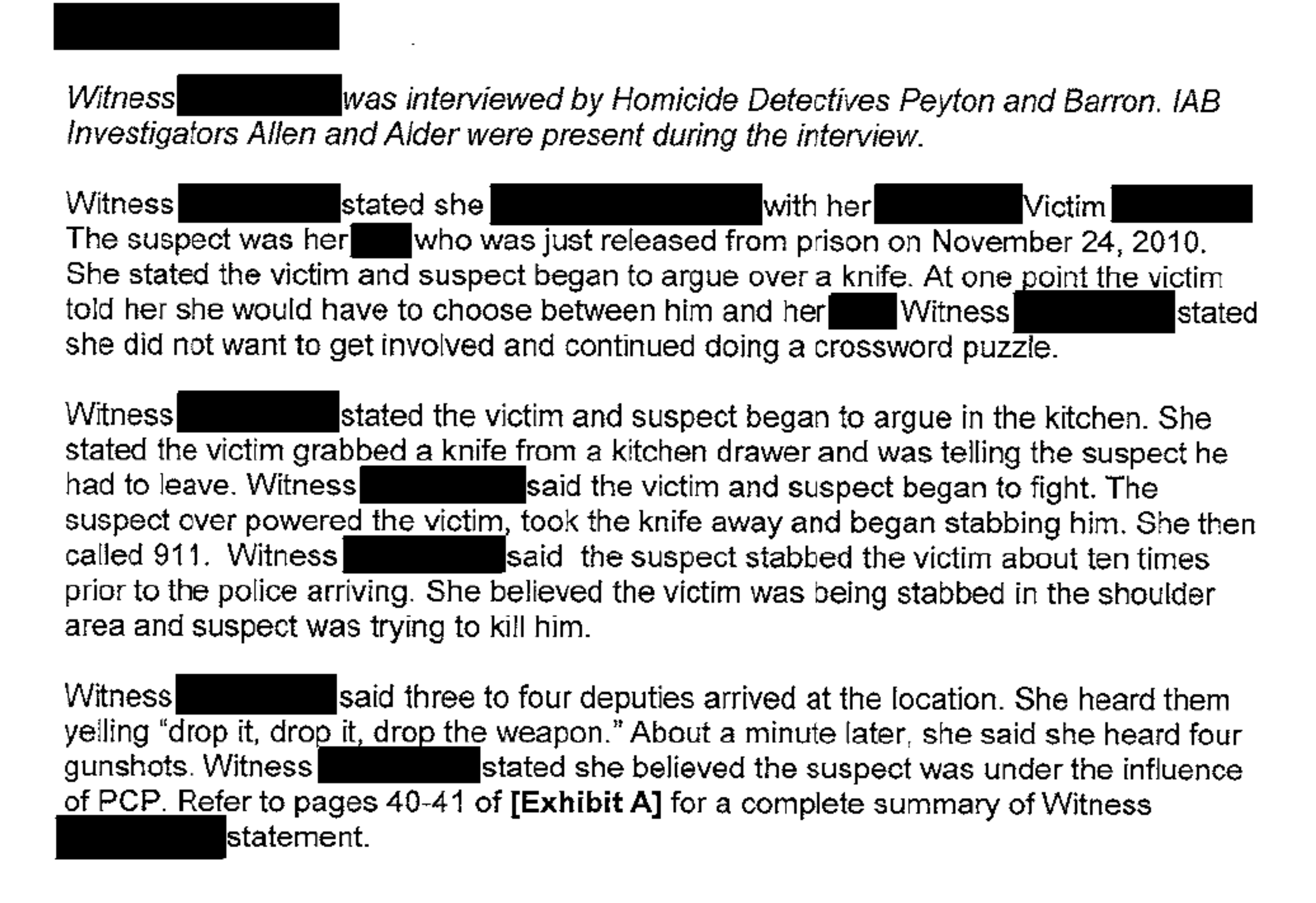
Deputy Iniguez stated he was assigned the assist for an assault with a deadly weapon call at the location. When he arrived at the location he saw a female standing on the landing screaming into the telephone. He said he ran upstairs and the female pointed toward the open apartment door. As he entered the apartment, Deputy Iniguez said he saw the suspect crouched over the victim who was lying on his back and bleeding. It appeared to him the victim had suffered head injuries. Deputy Iniguez stated he believed the suspect was killing the victim. He said he saw the suspect holding a cleaver with his left hand and he saw him strike the victim. Deputy Iniguez said he ordered the suspect "to drop it." Also he heard Deputy Torres, who standing to his right,

also tell the suspect to drop the weapon. However, the suspect looked in their direction and continued to strike the victim. Deputy Iniguez said he heard Deputy Torres yell he had a clear shot. Deputy Torres then fired three rounds at the suspect. After the shooting, Deputy Iniguez said he along with assisting deputies cleared the location. Refer to pages 38-39 of **[Exhibit A]** for a complete summary of Deputy Iniguez's statement.

Reserve Deputy Joseph Fertal

Deputy Fertal was interviewed by Homicide Detectives Peyton and Barron. IAB Investigators Allen and Alder were present during the interview.

Deputy Fertal stated when he arrived at the location, he saw Deputy Ruvalcaba holding a screaming female on the landing. As he approached the stairs, he heard three gunshots. He stated he entered the apartment and saw Deputies Iniguez and Nguyen clearing the apartment. He stated he guarded the suspect while waiting for additional units and the paramedics. Refer to page 40 of **[Exhibit A]** for a complete summary of Deputy Fertal's statement.



[redacted]

Witness [redacted] was interviewed by Homicide Detectives Peyton and Barron. IAB Investigators Allen and Alder were present during the interview.

Witness [redacted] stated she [redacted] with her [redacted] Victim [redacted] The suspect was her [redacted] who was just released from prison on November 24, 2010. She stated the victim and suspect began to argue over a knife. At one point the victim told her she would have to choose between him and her [redacted] Witness [redacted] stated she did not want to get involved and continued doing a crossword puzzle.

Witness [redacted] stated the victim and suspect began to argue in the kitchen. She stated the victim grabbed a knife from a kitchen drawer and was telling the suspect he had to leave. Witness [redacted] said the victim and suspect began to fight. The suspect over powered the victim, took the knife away and began stabbing him. She then called 911. Witness [redacted] said the suspect stabbed the victim about ten times prior to the police arriving. She believed the victim was being stabbed in the shoulder area and suspect was trying to kill him.

Witness [redacted] said three to four deputies arrived at the location. She heard them yelling "drop it, drop it, drop the weapon." About a minute later, she said she heard four gunshots. Witness [redacted] stated she believed the suspect was under the influence of PCP. Refer to pages 40-41 of **[Exhibit A]** for a complete summary of Witness [redacted] statement.

IAB Note: The laboratory analysis of the suspect's blood and urine indicated the presence of Phencyclidine (PCP), Marijuana, Methamphetamine and Cocaine. Refer to pages 73-74 of **[Exhibit A].**

Victim [redacted]

Victim [redacted] was interviewed by Homicide Detective Peyton at the University of California Irvine Medical Center.

Victim [redacted] stated he was at the location drinking and smoking marijuana with the suspect. The suspect had mentioned he smoked PCP earlier in the day. As they were watching television, Victim [redacted] said the suspect began hallucinating and acting bizarre. Believing the suspect was becoming dangerous, Victim [redacted] said he went to the kitchen to get away. However, the suspect followed him. When he saw the suspect follow him into the kitchen, Victim [redacted] said he grabbed a meat cleaver that was on top of the kitchen counter "just in case."

Victim [redacted] said the suspect became enraged and a struggle for the meat cleaver ensued. He said the struggle started in the kitchen, but ended up on the living room floor. Victim [redacted] said the suspect was punching him while saying "give me the knife." He stated the suspect was able to gain control of the cleaver and began violently striking him in the head, upper torso and arms. Victim [redacted] said the suspect continued striking him when the deputies entered. He heard the deputies tell the suspect to put the knife down. Victim [redacted] said he yelled to the deputies to "shoot him. He's killing me." He said the suspect continued his attack and then he heard gunshots. The victim sustained lacerations to his head, upper torso and arms from the assault. Refer to pages 41-42 of **[Exhibit A]** for a complete summary of victim [redacted] statement and injuries.

Injuries

No deputies were injured.

The suspect sustained three gunshot wounds. Two of the wounds were to his left torso and one wound was to his left back. Refer to pages 56-57 of **[Exhibit A]** for additional information.

Physical Evidence

All physical evidence was located and collected by Homicide investigators and Scientific Services Bureau personnel. For descriptions of the evidence collected and where it was collected, see the Homicide Investigation Book **[Exhibit A]** pages 43-44.

Investigators Observations

The scene is described in detail by Homicide investigators Sergeant Michael Rodriguez and Detective Gary Sica. There description of the scene is consistent with IAB Investigators observations. Refer to pages 45-48 of **[Exhibit A]**. The scene was also photographed by Scientific Services. Refer to the compact disc and thumb nail photos under **[Exhibit E].**

Weapons used by Deputy

Deputy Torres fired three rounds of Department issued 9mm ammunition from a Department issued Beretta Model 92FS, 9mm, semiautomatic pistol.

Weapon used by Suspect

Wooden handled meat cleaver

Property Damage

None

Criminal Investigator

Detectives Dameron Peyton and Margarita Barron of the Los Angeles County Sheriff Department's Homicide Bureau

Lighting and Weather Conditions

The interior of the location was lit by a living room light. Deputy Torres also used his "Sure Fire" light which was attached to his firearm.

IAB Interviews

Deputy Daniel Torres

Deputy Torres was interviewed by Homicide Investigators Peyton and Barron. A complete summary of his Homicide interview can be found on pages 34-36 of ***[Exhibit A].*** *He was subsequently interviewed by IAB Investigators Sergeants Allen and Dondra Cullins. The IAB interview addressed areas not covered in the Homicide interview. The following is a summary of Deputy Torres' IAB interview.*

Deputy Torres stated he and Deputy Ruvalcaba responded in tandem with Deputy Iniguez from Colima Road and Paso Real. He estimated they were less than two minutes away. As they drove to the location, he stated he gave direction to Deputy Ruvalcaba to position their car on the far east side of the location. He stated Deputy

Iniguez communicated to him via radio that he knew where to find the location. By the time Deputy Iniguez advised he knew were the location was, they were at the location.

Deputy Torres stated when he entered the apartment there was no cover or concealment available to him. In his backdrop, Deputy Torres stated there was an interior wall. He stated he saw a door to the left and the kitchen to the right. He stated he acquired a target which was a male holding a "butcher knife" attacking another male on the floor.

After the shooting, Deputy Torres stated he maintained cover on the suspect making sure he was not holding a weapon, while the other deputies cleared the location.

Miscellaneous

IAB Lieutenant Ault checked to see that the Early Morning Watch Commander, Sergeant Mannion took reasonable steps to ensure that the involved parties and witnesses did not discuss the incident among themselves or with uninvolved persons prior to being interviewed by the assigned investigators, as well as the involved parties and witnesses personnel did not collectively consult with their attorney or representative. In addition, Lieutenant Ault checked to see if the watch commander attempted to have the involved parties and witness personnel gather in the company of a supervisor until they have provided a statement to the assigned investigators.

Letter of Opinion

On July 29, 2011, Deputy District Attorney Fernando Guzman of the Justice System Integrity Division (JSID) submitted a Letter of Opinion, stating Deputy Daniel Torres acted in lawful defense of another when he used deadly force against Alexander Acosta. As such, the District Attorney has closed their file and will take no further action in this matter. For further information, refer to **[Exhibit F].**



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JACQUELYN LACEY • Chief Deputy District Attorney
PATRICK R. DIXON • Assistant District Attorney

JANICE L. MAURIZI • Director

June 29, 2011

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File # 10-0934
L.A.S.D. File # 010-08871-2931-013

Dear Captain Smith,

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 26, 2010, fatal shooting of Alexander Acosta by Los Angeles County Sheriff's Deputy Daniel Torres. It is our conclusion that Deputy Torres acted in lawful defense of another.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Detective Margarita Barron, LASD Homicide Bureau. The District Attorney's Command Center was notified of the shooting on November 26, 2010, at approximately 10:16 p.m. The District Attorney Response Team (DART), comprised of Deputy District Attorney Fernando Guzman and District Attorney Senior Investigator [redacted] responded and was given a briefing and a walk-through of the scene. Deputy Torres provided a voluntary statement to investigators which was considered as part of this analysis.

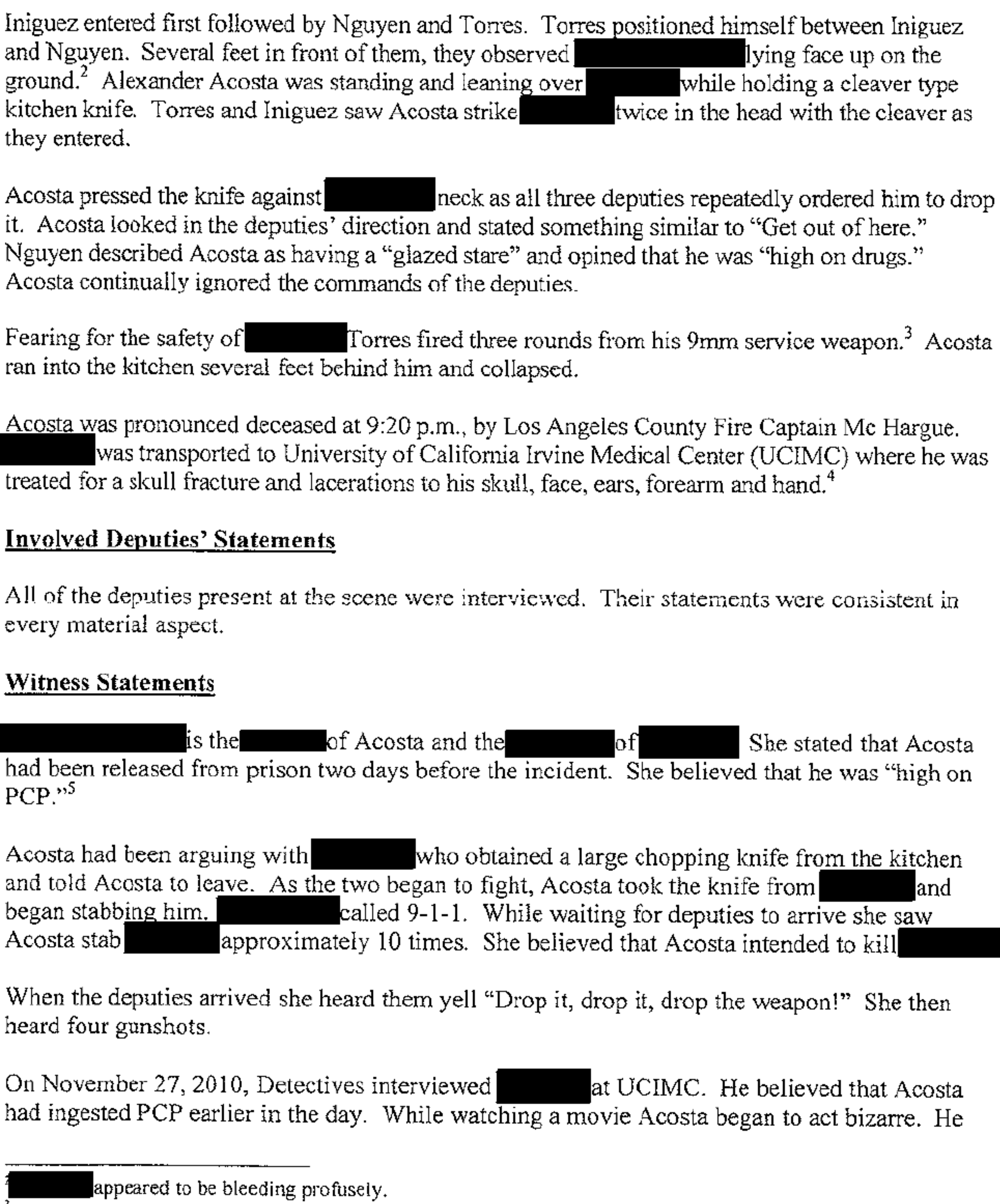
FACTUAL ANALYSIS

On November 26, 2010, at approximately 9:10 p.m., LASD Deputies Daniel Torres and Alejandro Ruvalcaba received a radio call regarding an assault with a deadly weapon. They responded to the residence which was a second floor apartment. Deputies Cuong Nguyen and Victor Iniguez met them in front of the building.

The four deputies ascended the exterior staircase and met a woman on the second floor landing. The woman was later identified as [redacted] Ruvalcaba stayed on the landing with [redacted] while the other three deputies entered the apartment. [redacted] was screaming "That's my [redacted] that's my [redacted]

[redacted] was the reporting party who called LASD.

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Iniguez entered first followed by Nguyen and Torres. Torres positioned himself between Iniguez and Nguyen. Several feet in front of them, they observed [redacted] lying face up on the ground.[2] Alexander Acosta was standing and leaning over [redacted] while holding a cleaver type kitchen knife. Torres and Iniguez saw Acosta strike [redacted] twice in the head with the cleaver as they entered.

Acosta pressed the knife against [redacted] neck as all three deputies repeatedly ordered him to drop it. Acosta looked in the deputies' direction and stated something similar to "Get out of here." Nguyen described Acosta as having a "glazed stare" and opined that he was "high on drugs." Acosta continually ignored the commands of the deputies.

Fearing for the safety of [redacted] Torres fired three rounds from his 9mm service weapon.[3] Acosta ran into the kitchen several feet behind him and collapsed.

Acosta was pronounced deceased at 9:20 p.m., by Los Angeles County Fire Captain Mc Hargue. [redacted] was transported to University of California Irvine Medical Center (UCIMC) where he was treated for a skull fracture and lacerations to his skull, face, ears, forearm and hand.[4]

Involved Deputies' Statements

All of the deputies present at the scene were interviewed. Their statements were consistent in every material aspect.

Witness Statements

[redacted] is the [redacted] of Acosta and the [redacted] of [redacted] She stated that Acosta had been released from prison two days before the incident. She believed that he was "high on PCP."[5]

Acosta had been arguing with [redacted] who obtained a large chopping knife from the kitchen and told Acosta to leave. As the two began to fight, Acosta took the knife from [redacted] and began stabbing him. [redacted] called 9-1-1. While waiting for deputies to arrive she saw Acosta stab [redacted] approximately 10 times. She believed that Acosta intended to kill [redacted]

When the deputies arrived she heard them yell "Drop it, drop it, drop the weapon!" She then heard four gunshots.

On November 27, 2010, Detectives interviewed [redacted] at UCIMC. He believed that Acosta had ingested PCP earlier in the day. While watching a movie Acosta began to act bizarre. He

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[redacted] appeared to be bleeding profusely.
3 Acosta was struck three times.
[redacted] was initially in critical condition, but survived his wounds.
5 PCP is phencyclidine.

believed that events occurring in the movie were actually occurring. Because Acosta was hallucinating and becoming dangerous, [redacted] went into the kitchen and grabbed a meat cleaver.

Acosta became enraged and began fighting. Acosta took control of the cleaver and began striking [redacted] about the head, torso and arms. Although [redacted] pleaded with Acosta to stop, he continued to strike. [redacted] heard the deputies enter and yell "Put the knife down!" [redacted] yelled "Shoot him! He's killing me!" Acosta continued his attack until the deputy fired his weapon. [redacted] expressed his gratitude toward the deputy.

Deputies canvassed the neighborhood immediately following the incident and contacted 10 persons. Three of those interviewed only heard the sound of gunshots. No other witnesses saw or heard anything.

<u>Autopsy Report</u>

A post mortem examination was performed on Alexander Acosta on November 30, 2010, by Doctor Ajay J. Panchal, M.D., Deputy Medical Examiner. Acosta had three entry gunshot wounds in his torso. Two wounds were in the upper left side of his chest with a direction of travel from left to right. The third wound was in the back with a direction of travel from left to right.

No soot or stippling was present on any of the wounds. Doctor Panchal ascribed the cause of death as multiple gunshot wounds.

<u>Toxicology Report</u>

Blood samples were collected from Alexander Acosta during the autopsy. The blood samples were submitted to the Coroner's laboratory for analysis. On January 5, 2011, the toxicology report indicated Acosta's blood contained phencyclidine, carboxy-THC, amphetamine and methamphetamine.

CONCLUSION

California law permits the use of deadly force in self-defense or in defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death.

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. <u>Graham v. Conner</u>, (1989) 490 U.S. 386, 396-397.

The evidence examined in this investigation shows that Alexander Acosta was under the influence of controlled substances and acting irrationally. He used a meat cleaver to inflict life-threatening injuries upon [redacted] who appeared helpless on the ground. He ignored deputies' orders to drop the weapon and appeared intent upon killing [redacted] Deputy Daniel Torres, in fear that Acosta was about to kill [redacted] fired his service weapon at Acosta.

Based on an examination of the evidence, we conclude that Deputy Torres acted in lawful defense of another when he used deadly force against Alexander Acosta. Therefore, we are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

FERNANDO GUZMAN
Deputy District Attorney
(213) 974-3888

c: Deputy Daniel Torres, #[redacted]